IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (MAIN) NO. 396 OF 2006

NATIONAL ORGANISATION FOR TOBACCO ERADICATION (NOTE) THROUGH ITS GENERAL SECRETARY,DR.SHEKHAR SALKAR ....Appellant

Versus

SHRI. KESHU RAMSAY AND 5 ORS., ...Respondents

Mr. V. P. Thali, Advocate for the Appellant.

Coram:- N. A. BRITTO, J.

Date:- 29th November, 2006

ORAL ORDER

Heard Shri Thali, the learned Counsel on behalf of the applicant who is the Complainant in C.C. no. 4/A/89/2006/D.

2. The said Complainant, having filed a complaint against several accused, who are the respondents in this petition under Section 5 (1) and 5(3) of the Cigarettes and Other Tobaco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, and Section 7 of the Goa Prohibition of Smoking and Spitting Act, 1997, the learned J.M.F.C. was pleased to issue process against the said accused under Section 22 of the Act of 2003 and Section 11(2) of the said Act of 1997. Accused no.4 in the said complaint has filed a revision before the learned Sessions Judge, Panaji, and pending the hearing of the said revision, the learned Sessions Judge, by Order dated 28.11.2006, has stayed the Order of the learned J.M.F.C. until the disposal of the revision petition and it is against this Order that the Complainant has invoked extraordinary jurisdiction of this Court to

challenge the said interim Order dated 28.11.2006 of the learned Sessions Judge, Panaji.

3. Whether the said revision is maintainable or not, is a matter which can be raised on behalf of the Complainant and will certainly be decided by the learned Sessions Judge. It is submitted that the impugned Order has been passed without any application of mind by the learned Sessions Judge. In case the said Order was not made, the very revision filed by the said accused would have been rendered infructuous, in that the trial of the case would have proceeded with. Considering the facts of the case, the impugned Order which is passed by the learned Sessions Judge, at this stage, could not be faulted. The Complainant is certainly at liberty to raise whatever objections he/it has to the said revision application before the Sessions Judge, regarding the maintainability or otherwise of the said revision application. Considering the facts, this is not a fit case to exercise extraordinary jurisdiction under Section 482 of the Code.

4. The learned Sessions Jusge is expected to decide the said revision petition as expeditiously as possible. With the above observation, the application is disposed of.

N. A. BRITTO, J.

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